

Before the  
Federal Communications Commission  
Washington, DC 20554

AUG 21 2002

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Beulah Public Schools	)	File No. SLD-128716
Beulah, North Dakota	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: August 14, 2002**

**Released: August 15, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Beulah Public Schools (Beulah), Beulah, North Dakota, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>1</sup> Beulah seeks review of SLD's denial of its application for discounts under the schools and libraries universal service support mechanism.<sup>2</sup> For the reasons set forth below, we deny Beulah's Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> The Commission's rules provide that an eligible school, library, or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.<sup>4</sup> In

<sup>1</sup> Letter from Wilfred Volesky, Beulah Public Schools, to Federal Communications Commission, filed October 9, 2001 (Request for Review).

<sup>2</sup> Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>4</sup> 47 C.F.R. §§ 54.504, 54.511(c).

Bid Sheet. Beulah explained that the date listed at the top of the contract (February 23, 1999), was the date that West River provided the bid for services, not the date that Beulah signed the contract.<sup>17</sup> Beulah maintained that SLD received its FCC Form 471 electronically on April 6, 1999 and it did not sign the agreement with West River until that date.<sup>18</sup>

6. SLD affirmed its original funding decision on September 10, 2001.<sup>19</sup> SLD stated that the documentation provided did not substantiate Beulah's claim that it signed the contract after the allowable contract date. SLD concluded that Beulah had failed to comply with the competitive bidding requirement that the FCC Form 471 be posted on SLD's website for 28 days prior to signing a contract for services.

7. In response, Beulah filed the instant Request for Review.<sup>20</sup> Beulah maintains that it signed its service agreement with West River after the allowable contract date.<sup>21</sup> We note that Beulah never submitted a copy of the document that it claims is its contract to SLD.

8. Upon review of the record, we conclude that SLD correctly denied Beulah's request for support. We conclude that SLD reasonably determined that the document Beulah attached to its FCC Form 471 was a contract for services signed prior to the expiration of the 28-day waiting period. The only dates listed on the document were February 23, 1999 and February 26, 1999. Both dates are before the expiration of the 28-day waiting period required by our rules. SLD made the reasonable conclusion that the document attached to the FCC Form 471 was a contract and that the signature date was February 26, 1999 at the latest. In addition, Beulah has failed to provide any information that substantiates its claim that the contract was signed on a date other than February 23, 1999.

9. The purpose of the 28-day waiting period is to ensure that prospective service providers have sufficient time to prepare and submit competitive bids for the services requested in the FCC Form 470. A signature date on an FCC Form 471 or on a service provider agreement that predates the expiration of the 28-day posting period indicates that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the Commission's competitive bidding rules.<sup>22</sup> The Wireline Competition Bureau (previously the Common Carrier Bureau) has consistently denied requests for review by

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Wilfred Volesky, Beulah Public Schools, dated September 10, 2001 (Administrator's Decision on Appeal).

<sup>20</sup> Request for Review.

<sup>21</sup> *Id.*

<sup>22</sup> See *Request for Review of the Decision of the Universal Service Administrator by Minor High School, Federal-State Joint Board On Universal Service Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 13790 (Com. Car. Bur. rel. 2000), para. 5.